

**Proposed changes to
Retrospective Rating rules**

Washington Administrative Code
296-17-90401 through 296-17-90485

Draft proposal for solicitation of comments from stakeholders

DRAFT VERSION OF DECEMBER 4, 2003

(20041204.doc)

Please direct comments or feedback to:

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WAC 296-17-90401 Introduction. To implement retrospective rating (retro) provided for in RCW 51.18.010, labor and industries (L&I) has developed a series of rules that can be found in chapter 296-17 of the Washington Administrative Code (WAC). As required by law (chapter 51.18 RCW), the retrospective rating plan is based on recognized principles of insurance.

Note: WAC 296-17-90401 through 296-17-90497 contain the general and special rules applicable to retro and the retrospective rating plan.

What is retrospective rating? Retro is a voluntary ~~financial incentive~~ workers' compensation insurance ~~program~~ option offered by L&I. Retro is designed to reward participating employers in the program that ~~and are able to~~ through effective workplace safety and accident prevention programs keep their employees from being injured. And, if injuries do occur, cooperate with L&I claims management efforts to get injured employees back to work quickly and safely. and keep their claim costs below the preselected level they have chosen. Reductions in claim costs are the result of improvements in workplace safety and injured worker outcomes.

Note: L&I received legislative authority to offer retro in 1980 (SSB 3169, chapter 129, Laws of 1980) and have offered retro options since 1981. In 1999, the legislature formalized the program in its own section of law (chapter 51.18 RCW) and made retrospective rating a mandatory offering of L&I. (SB 6048, chapter 7, Laws of 1999.)

What is the reward? Participating employers who are able to keep their claim costs below the level they pre-select successful may be receive a refunded of a portion of the accident fund premiums they paid to L&I.

Note: If you participate in retro as a member of a retrospective rating group, the sponsoring organization is responsible for making this selection for the group. All group members are bound by the selection of the sponsoring organization.

Are there any risks involved? Yes. Retro is not for everyone. An Employers in an individual enrollment or a sponsoring organization in the case of a group enrollment may be assessed additional premium if they are not committed to improving workplace safety and accident prevention for and/or do not take appropriate action to reduce the frequency and severity of accidents to their employees.

Are there any fees involved? L&I does not charge fees for this program.

Note: Organizations that sponsor retro groups ~~can and often do~~ typically charge their members fees for their services. These fees are not a requirement of L&I nor are they regulated by L&I.

Who can participate? To participate in retro an employer must:

- Any employer that Insures their workers' compensation insurance obligations with the L&I state fund;
- Have a written workplace safety and accident prevention plan as described in WAC 296-800-14005; and

Note: This is the plan required of all employers by Washington Industrial Safety and Health Rules.

- For an individual enrollment, the employer's expected annual standard premium must be no less than the minimum

standard premium as shown in Table 1 (WAC 296-17-90492) Size Group Number 63.

Note: Employers whose expected standard premiums are less than the minimum shown in Table 1 may qualify to participate in a retro group plan. Group information can be found at the retro web site (<http://www.lni.wa.gov/retro/associations/>).

- ~~Meets the all other eligibility~~ requirements contained in the retro rules ~~can participate in retro.~~

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WAC 296-17-90402 Definitions. To reduce misunderstandings that can result by our use of certain words or phrases, we have developed definitions that govern what these words or phrases will mean for retro purposes.

Account: An individual employer's industrial insurance account and related sub accounts~~7~~. ~~For in the case of~~ a retro group it means the sponsoring organization's industrial insurance account.

Account in good standing: A phrase we use when an employer and/or sponsoring organization is current with all payments due L&I and in compliance with L&I laws ~~and~~ rules ~~and regulations~~ at the time of enrollment or reenrollment. For an account to be in good standing you must:

- Have an active L&I industrial insurance account.
- Submit all reports required by L&I when they were due.
- Pay all industrial insurance premium payments, assessments, penalties and interest when due.

Note: This requirement also includes the payment of other fees, fines, penalties and assessments established by the department such as safety violations and computer access fees. An account may be deemed to be in good standing if the employer or group (sponsoring organization) is current with an L&I approved written repayment agreement.

- Not participate in the activities described in WAC 296-17-904~~284~~ concerning the direct payment of medical services.

Note: Organizations that sponsor a group must also file the safety plan when applicable (WAC 296-17-90409) and the annual safety report required in WAC 296-17-90411 to be in good standing.

- Provide L&I a surety bond, letter or credit or assignment of saving equal to your estimated maximum premium if requested to do so.

Adjustment: The process of calculating retrospective premium, and any resulting refund or assessment.

Note: For the first adjustment of a coverage period, retrospective premium is compared to the standard premium due. The difference will be refunded if the retrospective premium is lower than the standard premium due. You will be assessed the difference if the retrospective premium is higher than the standard premium due. In subsequent adjustments of the coverage period, the new retrospective premium is compared to the prior net retrospective premium to determine the amount of refund or assessment.

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Basic premium ratio (BPR): A component of the retrospective rating premium formula. The BPR represents a charge for administrative costs (except claims handling) and an insurance charge that covers the cost of having retrospective premium limited by the selected maximum premium ratio.

Case reserve: L&I's estimate of the cost associated with a specific claim.

Coverage period: A twelve-month period beginning January 1 and ending December 31, or April 1 through March 31, or July 1 through June 30, or October 1 through September 30. ~~Only claims with a date of injury within the selected coverage period and the standard premium due for the same coverage period are used to calculate retrospective premium.~~ Effective with the October 1, 2000, coverage period and all subsequent coverage periods thereafter, each coverage period will have three mandatory adjustments and no optional adjustments. The first adjustment will occur approximately nine months after the coverage period has ended. Each subsequent valuation adjustment will take place in twelve-month intervals.

Note: The coverage period for a retro group is selected by the sponsoring organization and the coverage period of an individual enrollment is selected by the employer.

Date of enrollment or reenrollment: A phrase used by L&I to establish when participation in retro begins. The date of enrollment or reenrollment is the first day of the coverage period.

Note: A sponsoring organization can add new group members each quarter during the coverage period. We refer to this as "staggered enrollment." Employers seeking to participate in an organization's group after the coverage period has begun must meet all of the application requirements found in WAC 296-17-90413. Staggered enrollment applications must be received in our Tumwater office by the 15th calendar day of the month prior to the selected quarter (i.e., December 15 for January 1; March 15 for April 1; June 15 for July 1; or September 15 for October 1). If the due date falls on a weekend or holiday, the application will be due on the next business day. Employers that participate in a retro group on a staggered enrollment basis are required to participate for the remainder of the coverage period unless they sell or close the enrolled business or become self-insured.

Developed losses, a.k.a. total incurred losses (developed): A component of the retrospective rating premium formula. Based on historical trends we know that the total incurred losses for claims in a coverage period tend to increase over time. This can be the result of claim reopenings, changes in time loss duration, increased medical utilization, etc. The developed losses computation anticipates and distributes these increases among all the participants in a coverage period.

Note: Developed losses for pension claims are determined by multiplying their incurred losses by the applicable performance adjustment factor. For nonpension claims, developed losses are determined by multiplying their incurred losses by the applicable loss development factors.

Final adjustment: the final net amount due (additional premium) or the final net amount refunded to an employer or sponsoring organization after the third adjustment of a coverage period has taken place and all appeals and protests related to that coverage period have been resolved.

Freeze date: See valuation date.

Group: Employer members of an organization who have agreed to have their retrospective premium calculated using the

participants' combined applicable standard premium and related developed loss data ~~of the participants as a whole.~~

Homogeneity: A word used to convey the requirement that retro groups be made up of like businesses.

Incurred losses: A cost measure of a claim. For open claims, incurred losses are the total of costs paid-to-date which have been assigned to a given employer account, or the case reserve established by the department, whichever is greater. For closed claims, incurred losses are the total of costs paid-to-date which have been assigned to a given employer account, regardless of any case reserve that may have been established.

Loss conversion factor (LCF): A component of the retrospective premium formula, the LCF represents an expense charge for claims handling and the present value of developed losses.

Note: LCFs can be found in [the retro plan tables](#) WAC 296-17-90493 through 296-17-90497.

Loss development factor (LDF): These are actuarially determined factors that are multiplied by incurred losses of nonpension retro claims to produce developed losses. LDFs are unique to each coverage period, but are the same for every nonpension retro claim in the coverage period.

Note: LDFs are periodically recalculated. LDFs shown on retro reports have already been adjusted by the applicable performance adjustment factor.

Loss ratio: The numerical result of dividing developed losses by standard premium.

Note: The retrospective premium calculation will generate a net refund if the basic premium ratio (BPR) + (Loss Ratio x the Loss conversion factor (LCF)) is less than 1. The BPR and LCF are determined by the plan selected by the individual enrollee, or in the case of a group by the sponsoring organization and the premium size of the individual enrollee or the group. Once these have been selected the retro group can only influence the loss ratio to determine the amount of refund. L&I suggests an evaluation of each claim to determine if there are trends and patterns and that the sponsoring organization implement workplace safety measures to eliminate or reduce loss regardless of the loss ratio.

Maximum premium ratio (MPR): A factor preselected by the organization (group) or individually enrolled employer. The MPR is multiplied by the standard premium (SP) to determine the maximum retrospective premium requirement for a given coverage period.

Note: MPRs can be found in [the retro plan tables](#) WAC 296-17-90493 through 296-17-90497.

Member of a group: These are the individual employers that participate in a group plan of a sponsoring organization.

Minimum premium ratio (MnPR): An actuarially determined factor applicable to plans A1, A2 and A3. The MnPR is multiplied by the standard premium (SP) to determine the minimum retrospective premium requirement for a given coverage period.

Note: MnPRs can be found in [the retro plan tables](#) WAC 296-17-90494 through 296-17-90496.

Net premium assessment: the additional net premium due after any adjustment for a given coverage period. A net premium assessment exists when the retrospective premium is greater than the standard premium paid.

Net premium refund: the net amount of accident fund premium returned to the employer or sponsoring organization after any adjustment for a given coverage period. A net premium refund

exists when the retrospective premium is less than the standard premium paid.

Pension claim: A claim designated as a fatality or total permanent disability.

Performance adjustment factor (PAF): An actuarially determined factor unique to each retro coverage period that ensures that aggregate refunds reflect the relative performance of retro versus nonretro state fund employers.

Plan: A numeric table developed by L&I used to calculate the retrospective premium requirement of a group or individually enrolled employer.

Note: A group or individually enrolled employer preselects from one of five plans (A, A1, A2, A3 or B). The selected plan (along with the MPR and standard premium volume) determines the minimum premium, basic premium and the loss conversion factor that is applied to the developed losses used in the retrospective premium calculation.

Premium: Money paid ~~(due)~~ from an employer for workers' compensation insurance. It does not include money paid as fees, fines, penalties or deposits.

Qualified employer: A phrase used by L&I to describe an employer that has an industrial insurance account and that the account is in good standing at the time of enrollment or reenrollment.

Retrospective premium: The net premium for a group or individually enrolled employer after an adjustment for a given coverage period. The retrospective premium is determined using the formulas and provisions found in WAC 296-17-90446.

Standard premium: A phrase used by L&I to denote the total accident fund and medical aid fund premiums paid ~~(due)~~ by a group or individually enrolled employer for a given coverage period.

Note: The supplemental pension assessment portion of total premiums ~~due (paid)~~ is not included. If the group includes employers subject to the staggered enrollment provision of the retro rules, the standard premium is the total accident fund and medical aid fund premiums ~~due (paid)~~ for the calendar months in which they have been accepted into a group.

Valuation date: The date selected by L&I in which incurred losses for applicable claims are measured and captured for the purpose of calculating retrospective premium.

Note: Changes in incurred losses that occur after the valuation date will not be considered until the next applicable valuation date. The first valuation date is approximately nine months after the coverage period ends. All subsequent valuations will occur in twelve-month intervals.

WAC 296-17-90405 Individual retro--Enrollment.

Your responsibility:

To enroll in an individual retro:

You must:

- Have an active L&I industrial insurance account.
- Keep your L&I industrial insurance account in good standing.
- Enroll all ~~similar~~ businesses ~~you own or have a controlling interest in~~ that have related L&I account sub account numbers and whose nature of business is substantially similar.

~~**Note:** A controlling interest means that you or a common set of owners own more than fifty percent of each business. If you acquire, purchase or start a new or existing business that you report in a separate L&I subaccount during the current coverage period that is of a similar business nature as the business enrolled in retro, the new business or businesses must be enrolled in retro for the remainder of the coverage period.~~

Example: You operate a chain of ten grocery stores. Each store is operated at a different location. You have requested that each store be assigned a special account (subaccount). You must enroll all ten stores in a retro plan. In addition, your company also has a separate administrative office. This office reports under the clerical office classification. You may elect to include your administrative office.

- Participate in retro for the entire coverage period unless you become a self-insured employer under RCW 51.14.020, or sell or close your business and close your industrial insurance account.

Note: This requirement also applies to an employer's participation in a retro group. L&I will use the reported exposure (standard premium and developed losses) of the employer for the portion of the coverage period the business operated in the retrospective premium calculation for the group.

- Have at least a minimum expected annual standard premium of \$3,202 as indicated in Table 1 (WAC 296-17-90492), Size Group 63.
- Select the maximum premium ratio and plan (A, A1, A2, A3 or B) that you wish to participate in. You should consider the benefits and risk of each plan and maximum premium ratio in making this selection.

Note: Plan and maximum premium ratio choices cannot be changed after the coverage period begins.

- Obey L&I's laws, rules and regulations.
- Complete, sign and return a copy of the "Individual Retrospective Rating Plan Agreement" form to L&I by the due date indicated on the form.

Note: Most employers participating in retro do so as a member of a group. If you are interested in participating in a group, you should contact the organization that sponsors the group you are interested in. They can tell you what their requirements are. Some organizations require a minimum standard premium for participation in their group. Any requirements other than those listed above are requirements of the organization that sponsors the retro group and not those of L&I.

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Note: If you contact us, we will send you a copy of the agreement form. A copy of the form can also be found at the retro website (www.lni.wa.gov/retro/).

- Not participate in prohibited activities such as, but not limited to, direct payment of medical services for a job related injury or illness.
- Provide us with a copy of your workplace safety and accident prevention plan.

Note: This is the plan required of all employers under WAC 296-800-14005 (Washington Industrial Safety and Health Rules).

We may require:

- You to provide us (L&I) with a surety bond ~~or an assignment of savings.~~

Note: We will accept an assignment of savings or a letter of credit in lieu of a surety bond. If at the time of re-enrollment you have a payment agreement in place for a prior coverage period we will require you to provide us a surety bond, letter of credit or assignment of savings to re-enroll in retro.

If required:

- The surety bond or assignment of savings will be executed on forms authorized by L&I.

Note: The surety bond or assignment of savings requirement will be based on the difference between the participants' estimated standard premium and the maximum premium due under the applicable retro plan. If the standard premium falls within two increment ranges, the bond will be at the next higher thousand-dollar increment. The surety bond, letter of credit or assignment of savings must be in full force and effect for the entire coverage and the related adjustment periods.

Our responsibility:

Upon receipt of the required forms and documents:

We will:

- Review the documents you have submitted and the Individual Retrospective Rating Plan Agreement form for completeness.
- Verify that your L&I industrial insurance account is in good standing at the time of enrollment.
- Notify you in writing of our acceptance or denial of your application to participate in retro and provide you with an explanation of our decision.
- Notify you in writing of any deficiency we identify in your workplace safety and accident prevention plan.

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WAC 296-17-90407 Reenrollment--Individual retro.

Your responsibility:

To reenroll in an individual retro:

You must:

- If before April 1, 2003, complete, sign and send L&I a new "Individual Retrospective Rating Plan Agreement" form by the due date indicated on the form.

Note: Beginning with the April 1, 2003, coverage period, and for each subsequent coverage period thereafter, L&I will automatically reenroll you in the same plan and maximum premium ratio that you previously selected provided your L&I industrial insurance account is in good standing at the time of reenrollment and you are in compliance with the requirements and conditions found in WAC 296-17-90405.

- For coverage periods beginning on or after April 1, 2003, complete, sign and send us (L&I) a new Individual Retrospective Rating Plan Agreement form only if you want to change plans, coverage periods or the maximum premium

ratio. This agreement form must be sent to us by the due date indicated on the agreement form. You do not need to send us a new agreement form if you do not want to make any changes.

Note: If you contact us we will send you a copy of the agreement form. A copy of the form can also be found at the retro web site (www.lni.wa.gov/retro/).

- Participate in retro for the entire coverage period unless you become a self-insured employer under RCW 51.14.020, or you sell or close your business and close your industrial insurance account.
- Provide us (L&I) with a surety bond if we request one from you.

Note: We will accept an assignment of savings or a letter of credit in lieu of a surety bond. If at the time of re-enrollment you have a payment agreement in place for a prior coverage period we will require you to provide us a surety bond, letter of credit or assignment of savings to re-enroll in retro.

- Provide L&I an annual written report that highlights your company's workplace safety accomplishments during the past coverage year and identifies areas that your business has targeted for improvement during the next coverage period.

Note: The written annual safety report is due in the Tumwater office no later than the last day of the month prior to the beginning of the coverage period. If the due date falls on a weekend or holiday, the safety report will be due on the next business day. If you fail to submit the required written report when due, you will not be reenrolled in retro until the requirement has been met.

Example of an Annual Safety Report

Past years accomplishments:

During the past year our company identified lifting resident clients as a leading cause of injury to our employees.

Working with safety professionals and manufacturers we were able to identify equipment that eliminates most of the hazards associated with lifting clients.

Working with the Department of Labor and Industries, we initiated a program at our nursing home facility using the newly identified equipment.

Comprehensive training on equipment use and safety was given to all employees at the facility. Although the program has only been in place for five months, we have seen a reduction in back injuries of 20 percent.

Projected plans:

We will continue to use the zero lift program during the next twelve months and anticipate a further reduction of back injuries of about 25 percent.

We will further evaluate non client related back sprains and strains and work with industry experts to further reduce these types of injuries.

Our responsibility:

If you contact us and ask us for assistance:

We will:

- Review ~~with you~~ your current premium and losses information with you.
- Answer questions that you have ~~on~~ about the different plans and maximum premium ratio options we offer you are considering.
- Help you with your workplace safety and accident prevention goals.

AMENDATORY SECTION (Amending WSR 01-23-058, filed 11/20/01, effective 1/1/02)

WAC 296-17-90409 New group--Requirements.

Your responsibility:

To sponsor a new retro group after July 25, 1999:

You must:

- Have an L&I industrial insurance account and the account must be in good standing at the time of enrollment.
- Be an organization with dues paying members.
 - Note:** This requirement is intended to provide a distinction between a business enterprise with clients not permitted to sponsor a retro group and an organization with members that can sponsor one or more retro groups. We recognize that some organizations may be funded through member donations and not dues. If your members do not pay dues, you must provide L&I a written confirmation of this fact when you send in your signed and completed group application.
- Provide L&I with copies of your organization's articles of incorporation, bylaws and marketing/membership applications or similar material.
 - Note:** This information is to be submitted with your completed group application.
- Be formed for purposes other than:
 - Obtaining or offering insurance coverage or insurance related services.
 - Note:** In addition to these prohibitions, an insurer, insurance broker, insurance agent, ~~or~~ insurance solicitor or third party administrator may not participate in the formation of a retrospective rating group; or sponsor a retrospective rating group. Since enhancement of workplace safety for the group is a principal requirement of retro, an organization that offers services primarily related to risk management, safety, loss control or claims administration will be deemed to be set up for the sole purpose of participating in retro and will not qualify to sponsor a retro group.
 - Sponsoring a retro group and participating in L&I's retrospective rating program.
 - Note:** We will verify the purpose(s) of the organization from the information contained in the articles of incorporation, bylaws, contracts and/or advertising material of the organization and contacts with other state agencies.
- Have been in existence for at least four years prior to sponsoring a retro group.
- Submit a written workplace safety and accident prevention plan to L&I.
 - Note:** The written safety plan must demonstrate to L&I's satisfaction that formation of the group will substantially improve workplace safety and accident prevention for the group members. The safety plan must be tailored to the business/industry of the group members and include an evaluation of the group members' past claims.
- Cooperate with L&I's claims management activities.
- Obey L&I laws, rules and regulations.
- Complete an Application for Group form and send it to L&I.

Note: When you complete this application, you will need to select the single industry or business category that will be applicable to your group, the maximum premium ratio and plan (A, A1, A2, A3 or B) that will apply to the group for the coverage period. You should consider the benefits and risk of each plan and maximum premium ratio in making this selection. Plan and maximum premium ratio choices cannot be changed after the deadline listed below.

Coverage period	Received by
Jan. 1 through Dec. 31	Oct. 31
April 1 through March 31	Jan. 31
July 1 through June 30	April 30
Oct. 1 through Sept. 30	July 31

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- Send us a cover ~~with~~ letter on your organization's letterhead ~~that lists with the required documents being enclosed and that the information contained in the documents is accurate as of the date of submittal.~~
-

**Sponsoring Organization
XXX NE 12th Street
Seattle, Washington**

**Labor and Industries
Retrospective Rating
P.O. Box 44180
Olympia, Washington 98504-4180**

Enclosed you will find the following documents:

**Application for Group
Articles of Incorporation and marketing
material
Group Safety Plan**

The information accurately reflects the purpose of our organization and is being provided as part of the application process required of all new retro groups.

If you have questions or need other information, feel free to call me.

Sincerely,

**Joe Smith
Executive Director**

Note: The new group information must be received in our Tumwater office by 5:00 p.m. (Pacific time) on the due date.

Our responsibility:

Upon receipt of the required information:

We will:

- Notify you in writing of any deficiency we identify in your workplace safety and accident prevention plan.
- Determine if your organization is qualified to sponsor a new retro group and notify you of our decision.

AMEND

WAC 296-17-90410 New group--Agreement finalized.

Our responsibility:

If we determine that your organization is qualified to sponsor a new retro group:

We will:

- Send you a "Group Retrospective Rating Agreement" form that must be signed, completed and returned by the date indicated on the form.
- Send you a blank Application for Group Membership and Authorization for Release of Insurance Data form.

Note: You should make copies of ~~the~~ this application form and give a copy to each proposed group member. L&I requires an application ~~for~~ from each proposed member.

Your responsibility:

When you receive the application and agreement forms:

You must:

- Send L&I a signed and completed "Application for Group Membership and Authorization for Release of Insurance Data" form for each proposed group member.

Note: An owner, partner or corporate officer of each business must sign the Application for Group Membership form.

- Provide L&I with documentation to establish that at least fifty percent of the proposed group members have been members of the sponsoring organization for at least one year prior to the first day of the selected coverage period.

Note: The documentation must include the name of the employer member and the date they became a member of the organization.

- Supply L&I with a surety bond if requested to do so.

Note: If required the surety bond will be in an amount equal to the difference of the projected standard premium of the retro group and the maximum premium under the plan selected rounded to the nearest thousand dollar increment. If a bond is required it is to be in effect until the final adjustment for the coverage period has been ~~finalized-completed~~. This includes the period related to the annual adjustments of the coverage period and periods covered by any appeal of that coverage period. We will accept a letter of credit or assignment of savings in lieu of a surety bond. If a letter of credit or assignment of savings is provided it will be in the amount of the difference between the aggregate standard premiums paid by the group members and the maximum premium selected by the sponsoring organization. The assignment of saving or letter of credit required for any given coverage period is to remain in full effect until the final adjustment of the coverage period has been completed.

- Complete, sign and return to L&I, the "Group Retrospective Rating Agreement" form we sent you ~~for to L&I~~ by the due date indicated on the agreement ~~a "Group Retrospective Rating Agreement" form.~~

Note: The "Application for Group Retrospective Rating" form required in WAC 296-17-90409 and the "group retrospective rating agreement" required by this rule are separate forms. Both forms are required of a new group.

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- Send all of the other ~~these~~ required documents described above to us (L&I) by the date indicated on the "Group Retrospective Rating Agreement" form.

Our responsibility:

Upon receipt of required information:

We will:

- Verify that the sponsoring organization has an active L&I industrial insurance account and that the account is in good standing at the time of enrollment.
- Verify that each proposed member has an active L&I industrial insurance account and that the account is in good standing at the time of enrollment.

Note: An employer with multiple L&I accounts must enroll all businesses that are of a similar business nature in retrospective rating. If we discover that an employer has multiple L&I accounts, we will notify the sponsoring organization of this fact. The sponsoring organization is required to obtain an application from the remaining accounts within thirty days of our notice or none of the employer's accounts will be enrolled in the group.

- Verify that the nature of business of each proposed member falls appropriately within the business/industry category selected by the organization.
- Verify that the proposed new group has a total group standard premium of at least \$1.5 million for the initial coverage period.

Note: The group standard premium will be based on the standard premiums of the proposed group members' most current fiscal year (four quarters) of reporting.

- Verify that at least fifty percent of the proposed group members have been members of the sponsoring organization for at least one year prior to group sponsorship.

Note: All employers of the proposed retro group must be members of the sponsoring organization.

- Notify you of our decision in writing.

Note: L&I will require a surety bond, for any new retro group when the sponsoring organization does not currently sponsor a retro group. We will accept a letter of credit or an assignment of savings in lieu of a surety bond. If required the surety bond will be in an amount equal to the difference of the projected standard premium of the retro group and the maximum premium under the plan selected rounded to the nearest thousand dollar increment. If a bond is required it is to be in effect until the final adjustment for the coverage period has been completed. This includes the period related to the annual adjustments of the coverage period and periods covered by any appeal of that coverage period. If a letter of credit or assignment of savings is provided it will be in the amount of the difference between the aggregate standard premiums paid by the group members and the maximum premium selected by the sponsoring organization. The assignment of saving or letter of credit required for any given coverage period is to remain in full effect until the final adjustment of the coverage period has been completed.

AMEND

WAC 296-17-90411 Existing group.

Your responsibility:

To continue to sponsor an existing retrospective rating group:

You must:

- Complete, sign and return the "Group Retrospective Rating Agreement" form by the date indicated on the agreement form.

Note: ~~If you do not want to change plans, maximum premium ratio or coverage periods, you do not need to send in a new application for group retrospective rating for each new coverage period unless you want to change plans, maximum premium ratio or coverage periods. L&I will assume the same plan, maximum premium ratio and coverage period. If your organization wants to change plans, maximum premium ratio or coverage period, you will need to submit a new application for group retrospective rating by the due date indicated on the application form. In the event that a Once selected, a sponsoring organization may not want to change their business or industry category unless the business or industry category is eliminated by L&I, or a new business or industry category is established that better describes the nature of business of the group members, sponsoring organization will need to change a business or industry category they must notify L&I either by letter or by completing a new application for group retrospective rating by the due date indicated on the application form.~~

- Submit a completed and signed "Application for Group Membership and Authorization for Release of Insurance Data" form for each new proposed member.

Note: These applications can be submitted throughout the coverage period. See employer group member requirements for detail of when enrollment begins. If the sponsoring organization changes plans, maximum premium ratios or coverage period, they must secure new applications from each member or get pre-approval from L&I if a different method will be used to serve notice to members of the change.

- Any employer approved by L&I to participate in a group prior to July 24, 1999 will continue to be approved for that group.

Example: Company A was approved to participate in retro group X prior to July 24, 1999. Company A did not qualify to re-enroll in retro group X during the July 1, 2003 re-enrollment because their industrial insurance account was not in good standing at the time of re-enrollment. Company A subsequently paid their account balance and is now seeking to re-enroll in the same group effective October 1, 2003. If Company A's industrial insurance account is in good standing at the time of the October 1, 2003, enrollment they can be enrolled in group X at that time.

- Provide L&I an annual written report that highlights workplace safety accomplishments of the group during the past coverage year and identifies areas that the group has targeted for improvement during the next coverage period.

Note: The written annual safety report is due in the Tumwater office no later than the last day of the month prior to the beginning of the new coverage period. If the due date falls on a weekend or holiday, the safety report will be due on the next business day. If you fail to submit the required written report when due, it will result in disqualification of the group. If this occurs, the sponsoring organization can requalify to sponsor the group but must satisfy the requirements applicable to new groups found in WAC 296-17-90409 and 296-17-90410.

Example of an Association Annual Safety Report

Past years accomplishments:

During the past year ~~the our~~ association identified lifting resident clients as a leading cause of injury for our members ~~was related to the lifting of resident clients.~~

~~The association W~~working with safety professionals and manufacturers we were able to identify in the field identified equipment that eliminates most of the hazards associated with lifting clients.

Working with the Department of Labor and Industries, our association initiated a pilot program at a number of member facilities using the newly identified equipment.

Comprehensive training on equipment use and safety was given to all employees at these facilities. Although the program is experimental at this time and only been in place for five months, we have seen a reduction in back injuries of 20 percent.

Projected plans:

The participating members of our retro group will implement a zero lift program at each facility in the next twelve months. We anticipate that this will reduce the number of back injuries for our members by approximately 50 percent.

The Our association will further continue to evaluate member losses associated with back sprains and strains and work with industry experts to further reduce these types of injuries.

- Supply L&I with a surety bond ~~or assignment of savings~~ if requested to do so.

Note: We will accept a letter of credit or an assignment of savings in lieu of a surety bond. L&I will require a surety bond, letter of credit or assignment of savings of all retro groups that are placed on probation. If required the surety bond will be in an amount equal to the difference of the projected standard premium of the retro group and the maximum premium under the plan selected rounded to the nearest thousand dollar increment. If a bond is required it is to be in effect until the final adjustment for the coverage period has been completed. This includes the period related to the annual adjustments of the coverage period and periods covered by any appeal of that coverage period. If a letter of credit or assignment of savings is provided it will be in the amount of the difference between the aggregate standard premiums paid by the group members and the maximum premium selected by the sponsoring organization. The assignment of saving or letter of credit required for any given coverage period is to remain in full effect until the final adjustment of the coverage period has been completed.

Our responsibility:

Upon receipt of the required forms and the annual safety report:

We will:

- Verify that the sponsoring organization's L&I industrial insurance account is in good standing at the time of reenrollment.
- Verify that the individual employer member L&I industrial insurance accounts are in good standing at the time of reenrollment.
- Provide written feedback on the sponsoring organization's annual safety report and if applicable request revisions to the report.

Note: The department will notify the sponsoring organization of any concerns or needed changes to the safety report within thirty days of submission of the ~~plan~~ report. The sponsoring organization is to submit a response and/or revised safety report as applicable within sixty days of our notification to them of our concerns or needed changes or as otherwise agreed upon by the department.

- Notify the sponsoring organization in writing of our decision to reenroll the group and the group members.
- Notify the sponsoring organization in writing of our decision to deny reenrollment to the group or group members.

Note: If we deny the enrollment of an employer because the nature of their business is not substantially similar to the business/industry selection of the group they applied for we will suggest alternate groups for the employer to consider as well as individual enrollment. If the employer agrees to one of the alternatives we will use the application submitted by the employer as a general application to participate in retro. This is intended to preserve the employers right to participate in retro in the quarter in which they applied. We will not apply this procedure if the employer or the sponsoring organization of the group where the denial occurred protests the denial decision of L&I. To exercise this option the employer's selection decision must be made within thirty days of our notification to them.

We may:

- Request the sponsoring organization to post a surety bond or assignment of savings in the amount of the difference between the projected standard premium of

the group and the maximum premium under the plan selected.

Our responsibility:

If we require a surety bond or assignment of savings:

We will:

- Notify you in writing of this decision.

Note: L&I will require the sponsoring organization to post a surety bond for any retrospective rating group they sponsor that has been placed on probation. L&I will accept an assignment of savings or letter of credit from a financial institution in lieu of a surety bond. If required the surety bond will be in an amount equal to the difference of the projected standard premium of the retro group and the maximum premium under the plan selected rounded to the nearest thousand dollar increment. If a bond is required it is to be in effect until the final adjustment for the coverage period has been completed. This includes the period related to the annual adjustments of the coverage period and periods covered by any appeal of that coverage period. If a letter of credit or assignment of savings is provided it will be in the amount of the difference between the aggregate standard premiums paid by the group members and the maximum premium selected by the sponsoring organization. The assignment of saving or letter of credit required for any given coverage period is to remain in full effect until the final adjustment of the coverage period has been completed.

WAC 296-17-90413 Individual employer group member requirements--Initial enrollment.**Employer's responsibility:**

To initially enroll in a retro group:

You must:

- Be a dues paying member of the organization that sponsors the retro group you wish to join.
- Complete an "Application for Group Membership and Authorization for Release of Insurance Data" form supplied to you by the sponsoring organization.

Note: You must send this application to the sponsoring organization by the date requested. Do not send it directly to L&I.

DRAFT

Place illustration here.

- Have an active L&I industrial insurance account. ~~and the account must be in good standing at the time of enrollment.~~

Note: Your industrial insurance account must be in good standing at the time of enrollment.

- Comply with L&I laws, rules and regulations.
- Enroll all businesses that ~~you (the employer member) own or have a controlling interest in~~ have related sub account numbers and whose nature of business is substantially the same.

~~Note: For purposes of retro, a controlling interest means more than fifty percent ownership in one or more business by the same owner or owners.~~

- Enroll all ~~similar~~ businesses ~~you own or have a controlling interest in~~ that have related L&I account sub account numbers and whose nature of business is substantially similar.

Example: You operate a chain of ten grocery stores. Each store is operated at a different location. You have requested that each store be assigned a special account. In addition to the ten stores, your company also has a separate administrative office. This office reports under the clerical classification. You must enroll all of your store locations if you are to participate in retro. The sponsoring organization may allow you to include your administrative office in the retro group.

- Authorize the sponsoring organization to represent you in all matters pertaining to your participation in their retro group for the requested coverage period and all subsequent adjustment periods.
- Participate in retro for the entire coverage period unless you become a self insured employer under RCW 51.14.020, or you sell or close your business and close your industrial insurance account.

Note: If you enroll under the staggered enrollment provision you are required to participate in retro for the remaining periods in the coverage period unless you become a self insured employer under RCW 51.14.020 or you sell or close business and close your industrial insurance account.

Sponsoring organization's responsibilities:

To enroll new members:

You must:

- ~~Forward to L&I~~ Send us the any member applications for your retro group that you want us (L&I) to consider. ~~by the due date for the selected coverage period or staggered enrollment quarter.~~

Note: Any application that you want us to consider must be received in the Tumwater L&I office by the due date for the selected coverage period or staggered enrollment quarter.

- Represent all proposed and approved group members in all matters pertaining to their participation in your

retro group for the requested coverage period and subsequent adjustment periods.

- Communicate L&I decisions directly to the members affected by the decision.

Our responsibilities:

Upon receipt of an "application for group membership and authorization for release of insurance data":

We will:

- Verify that the proposed members' business operations consist of substantially similar services and activities of other approved members and are within the business/industry category selected by the sponsoring organization.
- Verify that each proposed member has an active L&I industrial insurance account and that the account is in good standing at the time of enrollment.
- Notify the sponsoring organization in writing of our decision to allow or deny enrollment to any proposed member.

AMEND

WAC 296-17-90414 Individual employer group member requirements--Reenrollment.

Employer's responsibility:

To reenroll in the same retro group:

You must:

- Maintain your L&I industrial insurance account so that it is in good standing at the time of reenrollment.

Note: You do not need to complete a new application for group membership to reenroll in future coverage periods and the same retro group. L&I will automatically reenroll you in the existing retro group if your account is in good standing at the time of reenrollment. If you want to discontinue participating in the current retro group, you will need to notify L&I and the sponsoring organization of the retro group that you are leaving ~~us~~ in writing prior to the first day of the new coverage period. If you want to change to a different retro group, you will need to contact the organization that sponsors the group you are interested in and notify L&I in writing of your decision to change retro groups before the applicable enrollment deadline. Failure of an employer to notify L&I of a decision to change groups may result in the employer being enrolled in the former group and not the new group.

- Participate for the entire coverage period unless you become a self insured employer under RCW 51.14.020 or you sell or close your business and close your industrial insurance account.

Sponsoring organization's responsibility:

To reenroll existing members in your retro group for the next coverage period:

You must:

- Secure authorization annually from members that want to continue to participate in your retro group.
- Keep these authorizations on file for the selected coverage year and subsequent adjustment periods. These records are to be made available for department inspection upon request.

Note: If you use a paperless record management system such as imaging to there is no need to keep the original authorization on file. If we need a copy of the authorization, a copy of the imaged document will satisfy our needs.

- Notify L&I in writing of any changes (deletion) of participating members before the first day of the new coverage period.

Our responsibility:

Unless the participating employer member of a retro group or the sponsoring organization notifies L&I in writing:

We will:

- Automatically reenroll the employer member in the retro group for each subsequent coverage period provided the employer's L&I industrial insurance account is in good standing at the time of reenrollment.

Note: This procedure is intended to reduce the administrative burden on employers associated with the reenrollment process. A sponsoring organization can adopt a similar procedure to eliminate the need of the annual authorization by members. To do this the sponsoring organization must send L&I a letter outlining this intent and then send written notice to all affected members with a copy of the notice to L&I. This notice must indicate the method that a participating member must follow should they wish to not participate in the retro group in the future.

- Provide the organization with a list of businesses that are seeking to withdraw from the retro group they sponsor prior to the beginning date of the coverage period.

Note: The organization should contact members to verify the change. Often the member is not seeking to change plans but is simply confused by marketing material they may have received from ~~of~~ another group. If we do not hear from the employer or the sponsoring organization, we will enroll the employer's business in the new group as indicated in the most recent application.

Repeal

~~WAC 296-17-90428 Disqualification of a retro group. A sponsoring organization will forfeit the right to sponsor a retro group if:~~

- ~~• The retro group is required to pay additional net premium assessments in three consecutive coverage periods.~~

~~**Note:** The retro group will be placed in probationary status if they are required to pay additional net premium in two consecutive coverage periods. Once a group is placed on probationary status, the department will review the group's workplace safety and accident prevention plan and its methods for cooperation with department claims management activities. Following the review, the department will make recommendations for corrective steps that may be taken to improve the group's performance. In the event that the group's performance is not improved and the same retrospective rating group is required to pay an additional net premium assessment in the third consecutive coverage period, that group shall be denied future enrollment in the state's retrospective rating plan at the next enrollment. In addition, the sponsoring entity of the failed group may not sponsor another group in the same business or industry category for five coverage periods (sixty months) from the ending date of the failed group's last coverage.~~

- ~~• The organization encourages a participating member to pay a medical service provider directly for treatment of participating members' employees.~~

~~**Note:** Upon discovery of this violation, L&I will disqualify the retro group affected from further participation in the program and will issue an order and notice of decision to the sponsoring organization outlining the alleged violation. A sponsoring organization found to have participated in this activity will lose their right to ever sponsor a retro group in the future. All refunds earned by a retro group disqualified for this activity and not yet distributed by L&I will be forfeited.~~

WAC 296-17-90437 Faxed, e-mail and machine-copied agreements and applications. L&I may, on a case-by-case basis, accept a faxed copy of the completed application form or an imaged copy via e-mail.

Your responsibility:

If for any reason you are unable to return the original signed copy of an application or agreement to L&I by the due date:

You must:

- Call L&I at 360-902-4851 during regular business hours (Monday through Friday 8:00 a.m. - 5:00 p.m. Pacific time) to let us know that you are unable to mail the application by the due date.
- Make this call to L&I prior to 5:00 p.m. (Pacific time) on the due date.

Our responsibility:

Upon receipt of your call:

We will:

- Document your phone call in our files.
- Discuss with you other options such as a faxed or e-mailed copy of the required documents.

Your responsibility:

If we agree to accept a copy of the application, agreement form or other documents:

You must:

- Fax or e-mail the completed application or agreement form to our Tumwater office by the due date indicated on the original application.
- Maintain the original signed application form in your business files so that we may obtain the original from you in the event an issue of authenticity arises.

~~**Note:** If you use a paperless record management system such as imaging to there is no need to keep the original authorization on file. If we need a copy of the authorization, a copy of the imaged document will satisfy our needs.~~

WAC 296-17-90445 Valuation of coverage period.

Our responsibility:

- Approximately nine months after the coverage period has ended, we will do an initial valuation of the losses for each employer and group participating in retrospective rating.

Note: Effective with the October 1, 2000, coverage period and all subsequent coverage periods thereafter, each retrospective rating plan has three mandatory valuations and no optional valuations. The first valuation takes place roughly nine months from the last day of the coverage period. Each subsequent valuation will occur at twelve-month intervals from the initial evaluation date.

Example: Assume that your coverage period began July 1, 2001, and ended June 30, 2002 (twelve calendar months). Our first valuation date would occur the end of March 2003. This is roughly nine months from the last day of the coverage period.

On the valuation date, we will capture (or "freeze") the incurred losses for all of your claims with dates of injury that fall within the coverage period. For occupational disease claims, we will use the date the condition was diagnosed and that gave rise to the filing of a claim for benefits. Employers will be charged their pro-rata share of an occupational disease claim when:

- They exposed the worker to the hazard that gave rise to the occupational disease;
- Responsible for at least 10% of the state fund injurious exposure; and
- The injurious exposure falls within an open coverage period.
- ~~for the all claims with injury dates that fall within the coverage period are valued and the incurred losses that have been established for these claims are "captured" or "frozen."~~

Note: Our valuation is limited to the open or closed status of a claim on the evaluation date. We do not consider adjudicative decisions (i.e., claim allowance, case reserve, wage determination and dependent status) surrounding a claim in our valuation.

- During the adjustment process we convert the captured incurred loss of each claim into developed losses using the appropriate loss development and performance adjustment factors. Retrospective premium is then calculated using the applicable formulas and tables in the retrospective rating manual.
- Prior to the application of the performance adjustment factor, we will cap the loss value for any one claim or group of claims arising from a single accident that has collective developed losses in excess of five hundred thousand dollars at a maximum of five hundred thousand dollars.
- Since the standard premium used in the retro calculation is based on premiums reported but not necessarily paid, we will deduct from the

standard premium calculation any unpaid member premiums.

Note: A sponsoring organization and L&I can enter into an agreement for an alternate debt recovery method.

- Approximately twenty days after the valuation date, if entitled, we will send you your premium refund.

Note: If you participate in an individual plan or retro group, we will not issue a refund check if it is less than ten dollars. If a refund is less than ten dollars, we will credit the amount to your industrial insurance account and you can deduct the amount from your next premium payment. All retro group refunds are paid directly to the sponsoring organization. It is the responsibility of the sponsoring organization to distribute any refund to the group members. L&I does not regulate how refunds are distributed to group members. Employers that participate in retro are not required to share any of their retro refund with employees nor can they charge employees in the event of an additional assessment. A sponsoring organization cannot require an employer to continue to participate in their retro group as a condition of receiving a refund.

- We will send you a bill if you owe us additional premium.

Note: If you owe additional premium, it is due thirty days after we communicate the decision to you. We will charge penalties on any additional premium not paid when it is due (RCW 51.48.210). If you (employer in an individual plan or sponsoring organization of a retro group) are entitled to a refund for one coverage period and owe additional premiums for another coverage period, we will deduct the additional premiums due L&I from the refund. We will refund the difference to you. In the event that this adjustment still leaves a premium balance due, we will send you a bill for the balance. If an organization sponsors multiple retro groups and one group earns a refund and the other owes additional premium from a retro adjustment, we will deduct the additional premium from the refund due and issue a net refund to the organization for the difference or bill them for the remaining additional premium as applicable.

NEW

WAC 296-17-90483 Direct distribution of a retrospective rating group refund to affected members by L&I

If an organization that sponsored a respective rating group ceases operations, L&I may distribute any future refund earned by the group directly to the affected members of the retrospective rating group but only if we (L&I) are requested to do so in writing by members of the affected group.

To initiate this procedure we will:

- Send a written notice and legal order, to the sponsoring organization or their agent at their last known business or personal address, informing them of our intent to distribute all future retrospective rating refunds directly to the affected members.
- Send a written notice of this action to each affected member of the retrospective rating group.

Note: All direct distributions made by L&I will be based on each members pro-rata share of the refund as computed by L&I. We will not make a direct distribution of a retro refund to group members until the final adjustment for the applicable coverage period has been made.

Amend

WAC 296-17-90484 Direct pay of medical bills -- Prohibited. (1) Payment of medical services on behalf of

state fund insured employers is the sole responsibility of labor and industries. (2) Employers insured by the state fund are prohibited from paying a medical service provider directly for treatment of any work-related injury or illness sustained by one or more of their workers.

Our responsibility:

If we discover that you have paid a medical service provider directly for medical services related to an industrial injury or work related illness:

We will:

- Remove you from the retrospective rating program effective the date of our notification to you.

Note: Any employer that has been removed because of this practice will be barred from ever participating in the retro program. If the employer was entitled to a retro refund for any coverage period, it will be forfeited. If an organization that sponsors a retro group participates in this activity or encourages members to pay a medical service provider directly for a work related injury or illness sustained by one or more of their workers, the organization will be barred from ever sponsoring a retro group and will forfeit all retro group refunds not yet distributed by L&I.

(3) Organizations that sponsor retrospective rating groups are also prohibited from paying a medical service provider directly for treatment, service or medical advice of any work-related injury or illness provided to an employee of an employer participating in a retro group they sponsor or act as a third party administrator for.

Our responsibility:

If we discover that a sponsoring organization paid a medical service provider directly for medical services related to an industrial injury or work related illness:

We will:

- Terminate the retro group you sponsor effective the date of our notification to you.

Note: Any group that has been terminated because of this practice will be barred from ever participating in the retro program. Any refund payable to the sponsoring organization for any coverage period outstanding will be forfeited. The sponsoring organization will also be barred from ever sponsoring another retro group.

(4) Third Party Administrators that provide services to sponsors of a retrospective rating groups are also prohibited from paying a medical service provider directly for treatment, service or medical advice of any work-related injury or illness provided to an employee of an employer participating in a retro group.

Our responsibility:

If we discover that a third party administrator paid a medical service provider directly for medical services related to an industrial injury or work related illness of an employee of an employer they provide services to either directly or as part of a group plan they service:

We will:

- Terminate the retro group you provide services to effective the date of our notification to you and the sponsoring organization of the retro group.

Note: Any group that has been terminated because of this practice will be barred from ever participating in the retro program. Any refund payable to the sponsoring organization for any coverage period outstanding will be forfeited. The sponsoring organization will also be barred from ever sponsoring another retro group.

NEW**WAC 296-17-90485 Probation of a retrospective rating group.**

(1) When is a retrospective rating group placed on probation? A retrospective rating group that has concurrent additional net premium assessments for two consecutive coverage periods will be placed on probationary status prior to the re-enrollment deadline of the next applicable coverage period.

(2) What does the phrase "net premium assessment" mean?

The meaning of the phrase "net premium assessment" can be found in WAC 296-17-90402 (Definitions). For any adjustment of a coverage period an additional net premium assessment occurs when the retrospective premium is greater than the aggregate standard premium of the group members.

(3) When will the sponsoring organization know if the group is being placed on probation? We will notify the sponsoring organization that the group is being placed on probation prior to the re-enrollment deadline of the next coverage period.

(4) What are the sponsoring organization's responsibilities to re-enroll once they have been placed on probation? To re-enroll in retro the sponsoring organization must provide us with the following:

- A surety bond, letter of credit or assignment of savings that covers the estimated maximum group premium of re-enrollment coverage period prior to the first day of the coverage period.
- A copy of the accident prevention and safety plan for the group being placed on probation

Note: this plan must apply to the business and industry category the sponsoring organization selected for the sponsored group and must be sent to us (L&I) prior to first day of the re-enrollment coverage period.

(5) Upon receipt of this information we will:

- Review the accident prevention plan and will offer safety and loss control suggestions to help the sponsoring organization to continue to participate in retro.

(6) Can a retrospective rating group be denied future enrollment? Yes. If a retrospective rating group receives an additional net premium assessment in a third consecutive coverage period they will not be permitted to re-enroll in retro. Ordinarily L&I will not deny re-enrollment to a group until the final adjustment has been made to each coverage period producing a net premium assessment. L&I

may deny re-enrollment to a group prior to the final adjustment of the third consecutive coverage period when L&I can be reasonably demonstrate that the group will not be able to generate a net premium refund at final adjustment.

Example: There may sufficient undisputed costs already incurred that any questions about reserves or disputed benefits will only affect the amount of the premium assessment, not the fact that the group is going to experience a net premium assessment.

(6) The sponsoring entity of the failed group may not sponsor another group in the same business or industry category for five coverage periods from the ending date of the failed group's last coverage period.